

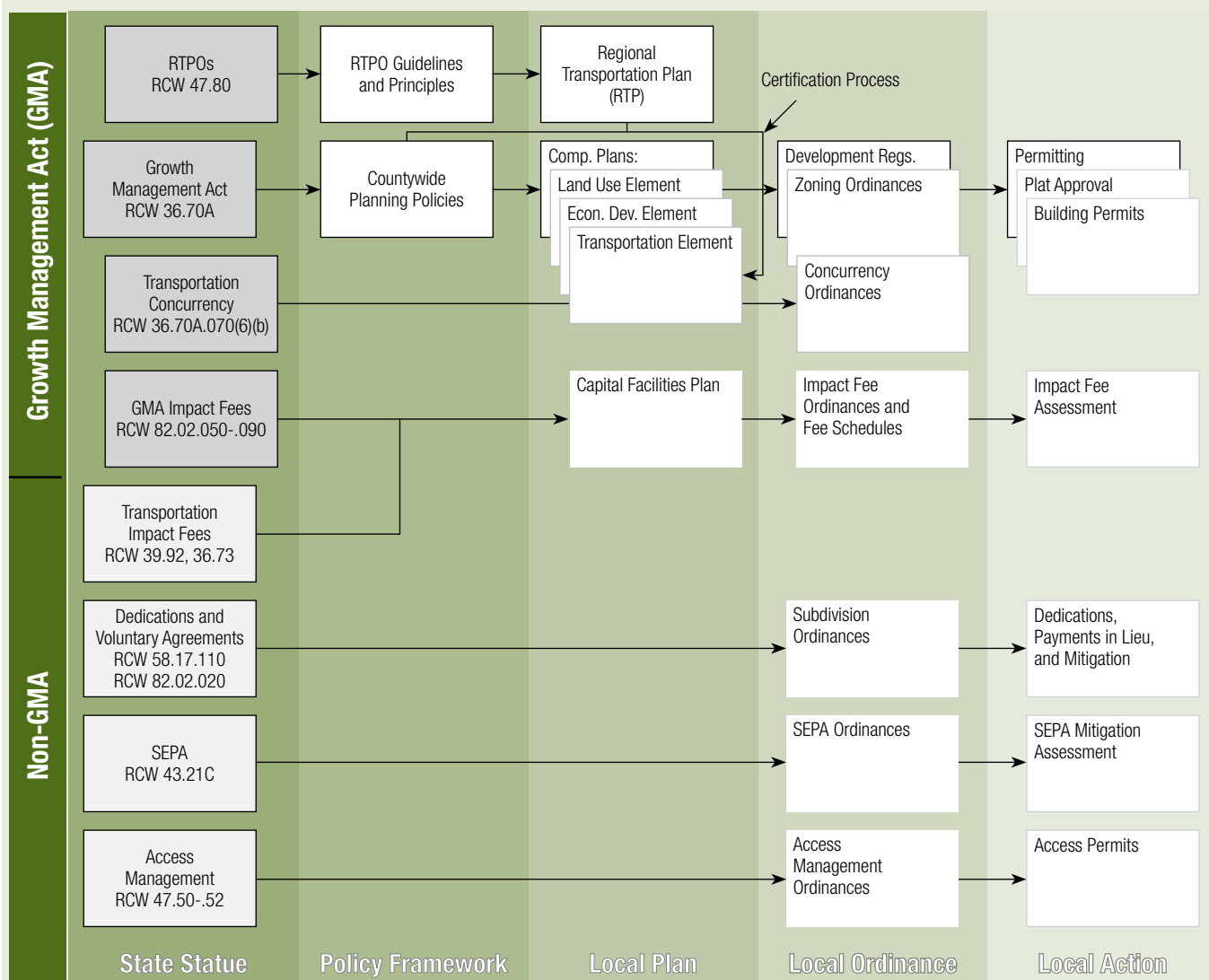
6. Findings

The analysis assessed the current legal framework for state, regional and local transportation planning, concurrency regulations, and development mitigation and fees. It has also evaluated the implementation of these laws by state, regional, and local agencies through their plans, regulations, administrative policies, and actions. In the course of the analysis, WSDOT staff and the Oversight Committee identified a number of gaps in law and practice that impede the achievement of the Growth Management Act (GMA) concurrency goal. The analysis findings summarize these gaps and categorize them as gaps in planning, funding, or governance.



The coordination of state, regional and local transportation planning, sufficient funding, and adequate governance systems are three key factors in the effective provision of transportation system improvements in Washington. Planning, funding and governance can be conceptualized as the legs of a stool; if any leg is broken the whole stool (the transportation system) is thrown out of balance.

Legal Framework for State, Regional, and Local Transportation Planning, Concurrency, and Mitigation



Planning Gaps

The law is clear and specific on the planning requirements for state transportation facilities for fully planning GMA cities and counties: an inventory of state facilities within their boundaries (including the adopted level of service standard for state highways), an estimate of the traffic impacts to state facilities resulting from their land use assumptions, and a list of state transportation system improvements needed to meet demand. However, a number of gaps reduce the effectiveness of these planning requirements, including:

- The process often lacks the government-to-government communication, data-sharing, and transportation modeling coordination needed to make existing planning requirements meaningful.
- Smaller jurisdictions have insufficient resources for planning and analyzing the impacts of their land use plans on state-owned transportation facilities.
- Depending on the local political climate, some jurisdictions may choose not to minimize the impacts of their land use plans on state-owned transportation facilities.
- Inconsistent local access permitting practices as well as grandfathered, illegal, and mandatory “reasonable access” requirements exacerbate land use impacts on state highways.
- Local plans and regulations are not consistently submitted by local governments to the state for review.
- Cities with populations of more than 22,500 control the maintenance and operations of the state highways within their boundaries.

The laws and administrative rules for the preparation of regional transportation plans are clear and specific. However, significant gaps in the process for certifying local comprehensive plans and county-wide planning policies and in the structure of the Regional Transportation Planning Organizations (RTPOs) include:

- The minimum requirements for the regional certification of local comprehensive plans are not sufficiently detailed to be meaningful.
- RTPOs are voluntarily formed by their member jurisdictions. Their ability to regulate or mandate local government transportation planning policies to achieve regional goals is limited by the political reality that member jurisdictions may react by withdrawing their participation and/or funding from the RTPO.
- RTPO member jurisdictions may have different planning requirements depending on whether they fully plan under the GMA or plan for critical areas and resource lands only. The different planning requirements make it challenging for RTPOs to craft regional plans and implement effective certification processes.
- Some RTPOs have very minimal levels of funding and staffing resulting in a lower capacity for planning and certification.

The state’s advisory role in the local and regional transportation planning processes is clearly defined in state law. Additionally, the Washington State Department of Transportation (WSDOT) has well-established responsibilities for state

transportation system planning. However, a number of gaps in practice limit the state's ability to effectively carry out its legislative mandates:

- General transportation planning guidance documents have not been updated since 1993. Guidance documents for state transportation facility planning requirements and regional transportation planning and certification have not been updated since 1998. The Washington Administrative Code is also out of date—the GMA section has not been updated since 2001 and the RTPPO section has not been updated since 1997.
- Due to limited staff resources for local comprehensive plan and development regulation review, only the most important local plans and regulations are reviewed by the state and the review focuses on the most high-impact issues overall. This is particularly true at WSDOT, which budgets only 1.2 FTE statewide for the review of local plans and regulations.
- WSDOT lacks systematic policies and procedures for reviewing, commenting on, and tracking local comprehensive plans and development regulations. Similarly, it does not have systematic policies and procedures for incorporating the information from local plans into its own state planning process.
- The state shares equal responsibility with local and regional agencies to participate in the planning process in a meaningful way, yet the process often lacks the government-to-government communication, data-sharing, and transportation modeling coordination needed to make the existing planning requirements effective.

Funding Gaps

State law has numerous provisions for local governments to charge fees or assess mitigation to developers in order to fund improvements needed because of the impacts of new development. Gaps in local government's use of mitigation or impact fees to fund growth-related state transportation improvements include:

- Local mitigation and impact fee practices vary widely and tend not to be used to the full extent allowed.
- Assessing mitigation on a case-by-case basis for every project is costly for local governments and unpredictable for developers.
- Local governments do not consistently submit relevant plans, regulations and project information to WSDOT for review under the State Environmental Policy Act (SEPA) so the state is not always aware of local government actions that should be considered for mitigation.
- The implementing rules of all mitigation tools except impact fees tend to focus resources towards short-term and small-impact projects. The need for larger projects with longer time horizons is more difficult to attribute to new development.

The mitigation of development impacts on the state transportation system is complicated largely because these tools are designed for use by cities and coun-

ties. Funding gaps related specifically to the state's role in funding transportation improvements needed because of growth include:

- Insufficient state transportation funding has led to little new capacity in the state's highway and ferry systems, particularly in the secondary system of state routes.
- The legislature might not consistently direct transportation investments toward planned growth areas.
- GMA impact fees cannot be used for state-owned transportation facilities.
- The state cannot always collect mitigation or fees directly from the developer and so must rely on the willingness of local agencies to condition development approval and collect mitigation or fees on behalf of the state.
- Due to limited staff resources and short timelines for review, WSDOT often focuses on reviewing and requesting SEPA mitigation for the developments with the largest impacts.
- WSDOT lacks clear standards for the substance of private traffic analyses. Nor does WSDOT have systematic policies for the tracking of development proposals, the documentation of review processes, and the reporting of results.

Governance Gaps

The primary governance mechanism for ensuring that the GMA's goal for transportation concurrency is achieved is the requirement that local governments deny developments if they cause the levels of service on local arterials to decrease below the minimum standard, unless a financial commitment is in place to complete transportation improvements or strategies to accommodate the impacts of those developments within six years. This transportation concurrency requirement is subject to a number of gaps, including:

- Transportation concurrency requirements do not apply to state-owned transportation facilities of statewide significance, except in Island and San Juan counties.
- The law is silent on whether state-owned transportation facilities and services that are not of statewide significance should be included in local concurrency systems.
- The transportation concurrency requirement does not guarantee a uniform minimum level of service and local governments can adopt failing levels of service as their standard.
- Transportation concurrency requirements do not apply to jurisdictions not fully planning under the GMA, including 10 counties and 63 cities accounting for 5% of the state's population.
- Concurrency may trigger inefficient land uses such as sprawl because some local governments do not tailor concurrency requirements and targeted concurrency exemptions (e.g. for infill) are not allowed.

- The transportation concurrency requirement applies only to new development which does not address existing transportation infrastructure deficiencies.
- Local governments cannot respond to concurrency failures by saying “no” to more people because the GMA requires them to accommodate projected population growth.

The implementation of the planning requirements for state-owned transportation facilities is governed by the GMA, which favors local discretion over state control. This governance structure limits the ability of the state to influence local land use decisions that might adversely impact state highways and ferry routes. These limitations include:

- The state’s influence over local land use plans and regulations that might adversely impact state facilities is limited because the presumption of validity means that local judgment prevails until appealed.
- Because the state’s role in reviewing and commenting on local comprehensive plans and development regulations is advisory, local governments may choose to disregard state comments.
- Limited staff resources has minimized WSDOT’s involvement in reviewing and commenting on local land use plans and regulations. However, in order to have standing to appeal a local land use decision, the state must have expressed its concerns during the comment period for a proposed plan or regulation.
- GMA appeals are costly to the state in addition to being adversarial and costly to local governments. Therefore, this enforcement mechanism is used infrequently for only the most egregious violations of state law.

Planning, funding and governance gaps limit the effectiveness of current laws to address the potential impacts of local land use decisions on state highways and ferry routes. Some of these gaps are statutory and would require legislative action to address; others are administrative and might require additional resources as well as changes in state, regional and local practices.